

# 14.404-1 Cancellation of invitations after opening.

(a)

(1) Preservation of the integrity of the competitive bid system dictates that, after bids have been opened, award *must* be made to that responsible bidder who submitted the lowest responsive bid, unless there is a compelling reason to reject all bids and cancel the invitation.

(2) Every effort *shall* be made to anticipate changes in a requirement before the date of opening and to notify all prospective bidders of any resulting modification or cancellation. This will permit bidders to change their bids and prevent unnecessary exposure of bid prices.

(3) As a general rule, after the opening of bids, an invitation *should* not be cancelled and resolicited due solely to increased requirements for the items being acquired. Award *should* be made on the initial invitation for bids and the additional quantity *should* be treated as a new *acquisition*.

(b) When it is determined before award but after opening that the requirements of [11.201](#) (relating to the availability and identification of specifications) have not been met, the invitation *shall* be cancelled.

(c) Invitations *may* be cancelled and all bids rejected before award but after opening when, consistent with subparagraph (a)(1) of this section, the *agency head* determines *in writing* that-

(1) Inadequate or ambiguous specifications were cited in the invitation;

(2) Specifications have been revised;

(3) The *supplies* or services being contracted for are no longer required;

(4) The invitation did not provide for consideration of all factors of cost to the Government, such as cost of transporting Government-furnished property to bidders' plants;

(5) Bids received indicate that the needs of the Government can be satisfied by a less expensive article differing from that for which the bids were invited;

(6) All otherwise acceptable bids received are at unreasonable prices, or only one bid is received and the *contracting officer* cannot determine the reasonableness of the bid price;

(7) The bids were not independently arrived at in open competition, were collusive, or were submitted in bad faith (see [subpart 3.3](#) for reports to be made to the Department of Justice);

(8) No responsive bid has been received from a responsible bidder;

(9) A cost comparison as prescribed in OMB Circular A-76 and [subpart 7.3](#) shows that performance by the Government is more economical; or

(10) For other reasons, cancellation is clearly in the public's interest.

(d) *Should* administrative difficulties be encountered after bid opening that *may* delay award

beyond bidders' acceptance periods, the several lowest bidders whose bids have not expired (irrespective of the acceptance period specified in the bid) *should* be requested, before expiration of their bids, to extend *in writing* the bid acceptance period (with consent of *sureties*, if any) in order to avoid the need for resoliciting.

(e) Under some circumstances, completion of the *acquisition* after cancellation of the invitation for bids *may* be appropriate.

(1) If the invitation for bids has been cancelled for the reasons specified in subparagraphs(c)(6), (7), or (8) of this subsection, and the *agency head* has authorized, in the determination in paragraph (c) of this subsection, the completion of the *acquisition* through negotiation, the *contracting officer shall* proceed in accordance with paragraph (f) of this subsection.

(2) If the invitation for bids has been cancelled for the reasons specified in subparagraphs(c)(1), (2), (4), (5), or (10) of this subsection, or for the reasons in subparagraphs(c)(6), (7), or (8) of this subsection and completion through negotiation is not authorized under subparagraph (e)(1) of this subsection, the *contracting officer shall* proceed with a new *acquisition*.

(f) When the *agency head* has determined, in accordance with paragraph (e)(1) of this subsection, that an invitation for bids *should* be canceled and that use of negotiation is in the Government's interest, the *contracting officer may* negotiate (in accordance with [part 15](#), as appropriate) and make award without issuing a new *solicitation* provided-

(1) Each responsible bidder in the sealed bid *acquisition* has been given notice that negotiations will be conducted and has been given an opportunity to participate in negotiations; and

(2) The award is made to the responsible bidder offering the lowest negotiated price.

**Parent topic:** [14.404 Rejection of bids](#).